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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 1781 of 2007

Date of decision: 7.8.2007

Mohinder Singh **...Appellant**

Versus

State of Punjab and others **...Respondents**

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. T.P.Singh, Advocate for the appellant.

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RAJESH BINDAL, J.

This is plaintiff's second appeal against the concurrent findings recorded by both the Courts below wherein order passed by the authorities discharging the appellant under Rule 12.21 of the Punjab Police Rules, during the period of probation, was under challenge.

Briefly, the facts are that the appellant was recruited as constable on December 12, 1991. Because of his absence and during that period involvement in a criminal case, he was initially suspended and then discharged under Rule12.21 of the Punjab Police Rules. The statutory appeal filed by the appellant against the order of discharge was dismissed by the Appellate Authority. However, during the pendency of mercy petition, appellant approached the Civil Court, which upheld the orders passed by the authorities below.

A perusal of the order of discharge in the present case shows that same is simpliciter without any stigmatic effect. From the work and conduct of the appellant during the period of probation it was quite evident that he was unlikely to prove an efficient police officer. The absence from duty of a member of disciplined force coupled with the factum of his

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involvement in criminal case itself shows his conduct. What has been submitted that later on period of absence was converted into leave without pay and the appellant was acquitted in the criminal case. These facts, in my opinion, would not be relevant for consideration of his claim for continuation in service. The employer is not supposed to wait till the trial was over or any other subsequent order regarding his absence was passed. Even otherwise, the claim of the appellant has been considered by the Appellate Authority in mercy petition and both the courts below but the appellant could not succeed. In the present appeal, this Court is not sitting as an Appellate Authority against the order of discharge rather the appeal could be entertained only on a substantial question of law, which, in my view, does not arise in the present appeal as on a subjective satisfaction competent authority thought it fit and proper to discharge the appellant on the ground that he was not likely to prove an efficient police officer. In this appellate proceedings, this Court will not like to substitute its opinion against the order of discharge. Accordingly, the appeal is dismissed.

August 7, 2007 **(Rajesh Bindal)**
Pka **Judge**